



"I will stand for my client's rights.  
I am a trial lawyer."  
—Ron Motley (1944–2013)

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June 21, 2018

The Honorable Vince Chhabria  
U.S. District Judge  
United States District Court  
for the Northern District of California  
San Francisco Courthouse  
Courtroom 4 – 17th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94012

Re: Application of Marlon E. Kimpson to Serve in Leadership in *In re: Facebook, Inc.,  
Consumer Privacy User Profile Litigation*, 18-md-2843-VC

Dear Judge Chhabria:

I write to submit my application for a leadership position in the above-captioned case. I am a Motley Rice LLC (or "Motley Rice") member who has practiced complex mass tort and securities litigation for 18 years. I have significant experience and involvement in complex litigation and consolidation actions, including class actions. I have a willingness to commit to a time-consuming project and the ability to work cooperatively with others. I have access to resources to prosecute the litigation in a timely manner, having done work in investigating and prosecuting potential claims in the action, with knowledge of the applicable law, and representing plaintiffs adversely impacted by this data breach. *See*, Manual for Complex Litigation, 4<sup>th</sup>, § 10.2, *et. seq.* (2016).

I began my practice building and trying cases against asbestos companies on behalf of individuals in Kentucky, Mississippi, Arkansas, Alabama and Louisiana. In 2008, I then began representing individuals, state and municipality pension funds, multi-employer plans, unions and other institutional investors in complex securities fraud class actions, shareholder derivative and mergers and acquisition cases to help recover assets and improve corporate governance. I have been a key player in the firm's securities practice group, devoting a significant portion of my time to client management, development and case strategy.

I have worked on the following securities fraud class actions as local counsel: *Edna Salen Epstein, et al. v. World Acceptance Corporation, et al.*, No. 6:14-cv-01606-MGL (D.S.C.); *In re SCANA Corporation Securities Litigation*, No. 3:17-cv-02616-MBS (D.S.C.).

Understanding the impact that fiduciary malfeasance and unfair corporate transactions have on shareholders, I have also advised clients and directed overall strategy in shareholder derivative litigation and merger and acquisition cases including: *In re Atheros Communications, Inc. Shareholder Litigation*, C.A. No. 6124-CVN (Court of Chancery of the State of Delaware); *In re Celera Corporation Shareholder Litigation*, C.A. No. 6304-VCP (Court of Chancery of the State



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of Delaware); *In re RehabCare Group, Inc. Shareholder Litigation*, C.A. No. 697-VCL (Court of Chancery of the State of Delaware); *In re Coventry Health Care, Inc. Shareholder Litigation*, C.A. No. 7905-CS (Court of Chancery of the State of Delaware); *In re Big Lots, Inc. Shareholder Litigation*, C.A. No. 2:12-cv-00445-MHW-KAJ (S.D. Ohio).

In addition to complex securities and fiduciary litigation, I support the State of South Carolina in litigation alleging deceptive marketing of highly addictive opioid prescription painkillers by Purdue Pharma Inc. During my career, I have also represented victims of catastrophic personal injury, and aviation disasters. I also have litigated commercial and charter aviation cases with clients, defendants and accidents involving multiple countries. I represented people and businesses under the new claims programs established by the two Deepwater Horizon BP oil spill settlements. Most recently, I was trial counsel in *Antoine Bostic v. 3M Company, et al.*, Case No. 2017-CP-0400 (Court of Common Pleas, Darlington County, South Carolina), an asbestos products liability case tried against Johnson & Johnson, Inc. in May of this year.

Regarding this action against Facebook, Inc. and Cambridge Analytica, on April 5, 2018 Motley Rice filed the *Taylor Picha v. Facebook, Inc. and Cambridge Analytica*, No. 3:18-cv-02090-WHO (Apr. 5, 2018) action in the U.S. District Court for Northern District of California, and on April 30, 2018, Motley Rice filed the *Craig Skotnicki v. Facebook, Inc. and Cambridge Analytica*, No. 18-cv-00655 (Apr. 30, 2018) action in the U.S. District Court for the District of Delaware. These class actions address those Facebook consumers who were adversely impacted by the misuse of their personally identifiable information and who have suffered from attempted identity theft as a direct result. Motley Rice has dedicated significant resources to this complex case. The firm has already initiated a factual investigation into the potential liability Facebook, Inc. and Cambridge Analytica, and conducted research into the various underlying legal theories in the case. Motley Rice has participated in meetings, calls and organizational discussions by other firms involved in this litigation. Motley Rice has retained bankruptcy counsel, Michael Etkin of Lowenstein Sandler, to appear and protect class rights against Cambridge Analytica and its various subdivisions. Motley Rice is also working with McCue & Partners, a London-based firm, concerning London bankruptcy proceedings involving Cambridge Analytica.

On the question of fees, in the MDL and class action context, Motley Rice counsel maintains contemporaneous time and expense records, and in such instances, hourly rates are billed. Motley Rice is accustomed to MDL timekeeping and the need for committed, coordinated counsel to work cooperatively, effectively and efficiently to advance the case through coordinated discovery efforts and common benefit work.

**Honors and Awards.** In 2017, the American Association of Justice Minority Caucus awarded me with its Johnnie L. Cochran, Jr. Soaring Eagle Award reserved for lawyers of color who have made outstanding contributions to the legal profession and paved the way for others. I have been named in *The Best Lawyers in America* in the area of Mass Tort Litigation/Class Actions – Plaintiffs from 2015-2018. I received the National “Litigation Star” award from *Benchmark Plaintiff* in 2012 for



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my achievements in mass tort/product liability litigation, and the South Carolina “Litigation Star” award from 2012-2014 for my achievements in environmental, mass tort and securities litigation.

Motley Rice was labeled a “most feared plaintiffs firm” by *Law360* in 2013 and 2015; in addition to being listed by *The National Law Journal* on The Plaintiffs’ Hot List for 2006, and 2012 – 2016. Motley Rice was awarded a “highly recommended” national ranking for 2012, 2013 and 2014 by *Benchmark Plaintiff* for its work in product liability, bankruptcy, commercial/mass tort, civil rights and human rights, environmental, medical malpractice, securities, toxic tort and white collar crime. Motley Rice was named by *U.S. News - Best Lawyers* to its 2013 National and Metropolitan First-Tier rankings of “Best Law Firms.”

Motley Rice has been involved with numerous complex cases and MDLs involving asbestos, automobile defects, consumer fraud, defective medical devices, pharmaceutical litigation, lead poisoning, environmental pollution, catastrophic injuries, securities fraud, transportation disasters, human rights and anti-terrorism, and complex national and international mass tort cases, a full list of which can be found in the Firm’s Résumé.<sup>1</sup> Motley Rice attorneys are admitted to practice in 22 jurisdictions.

An experienced, coordinated, professional leadership team will assist the Court in managing this case effectively. As the Manual for Complex Litigation 4<sup>th</sup> states, “The complexity of legal and factual issues makes judges especially dependent on the assistance of counsel.... The added demands and burdens of complex litigation place a premium on attorney professionalism...” § 10.21 (2016). I, with the full support of Motley Rice, bring relevant experience to this case in the realms of mass tort, class action, complex case investigation and discovery, consumer protection and complex case resolution.

The firm has done due diligence on this case and research on behalf of our lead client, *Taylor Picha*. *Picha* was subjected to the misuse of her personally identifiable information by Facebook, Inc. and Cambridge Analytica. She, and other clients represented by Motley Rice like her, need and deserve effective and zealous representation.

Wherefore, I commit my willingness to serve in a leadership role pursuant to the Federal Rules and this Court’s Rules, and the Manual for Complex Litigation 4<sup>th</sup>, and respectfully request that this Court grant this application and appoint me to serve in a leadership role, or in any capacity the Court deems appropriate.

Respectfully submitted,

Marlon E. Kimpson

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<sup>1</sup> <http://www.motleyrice.com/about/mdlcomplex-leadership-experience>